



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

BOSTON, MA 02109-3912

**MEMORANDUM**

DATE: July 25, 2018

SUBJECT: Recusal Statement

FROM: Alexandra Dapolito Dunn  
Regional Administrator

A handwritten signature in blue ink, reading "Alexandra Dapolito Dunn", is written over the printed name and title of the sender.

TO: Andrew Wheeler  
Acting Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and the Region's ethics team and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.



## *OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to my former employer during the preceding two years. For purposes of this restriction, the entities that currently fall within the prohibition are my former employers (the Environmental Council of States (ECOS) and the Environmental Research Institute of the States (ERIS), as well as the American University Washington College of Law), and two entities for which I held served in a fiduciary role (the Environmental Law Institute and the American College of Environmental Lawyers).

With respect to ECOS, I note that the Executive Order specifically exempts state governments from the definition of "former employer." *See* Section 2(j) of Exec. Order 13770. Because ECOS is a non-profit, non-partisan association of state environmental agency leaders, the Office of General Counsel sought advice from the White House Counsel's office as to whether ECOS would fit within the exclusion of "state governments" and, if it does not, to grant me a waiver pursuant to Section 3. This advice, which I have attached, strongly supports my common-sense position that ECOS fits within the state government exclusion.<sup>1</sup>

I understand, however, that unless and until a determination is made that ECOS fits within the state government exclusions or a waiver is granted, I will abide by the recusal period imposed by the Executive Order. If the White House grants this waiver, then I understand that the impartiality provisions of 5 C.F.R. § 2635.502 will apply to my covered relationship with ECOS. At that point, pursuant to 5 C.F.R. § 2635.502(d), I understand that OGC/Ethics will consider whether the interest of the United States Government in my participation in ECOS matters outweighs any concerns about my impartiality.

Absent a waiver and pursuant to the Executive Order, I understand that I cannot participate in any particular matter involving specific parties in which any of the entities listed below is a party or represents a party. My recusal lasts for two years from the date that I joined federal service. I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means five or more parties who represent a diversity of interests rather than one shared perspective<sup>2</sup>.

---

<sup>1</sup> ECOS is a strong advocate for and representative of state interests. One of the highest priorities of the current administration is cooperative federalism and the recalibration of state and federal roles leading to more effective environmental management. If I am unable to freely interact with ECOS, my ability to communicate and work in cooperation with the New England states is severely constrained. As a result, the exclusion, or a waiver from Executive Order prohibition, is vital to my ability to fulfill the priorities of this administration, and to fully perform my responsibilities as the Regional Administrator.

<sup>2</sup> I understand that such meetings "do not have to be open to every corner, but should include a multiplicity of parties. For example, if an agency is holding a meeting with five or



| NAME OF ENTITY  | DATE WHEN RECUSAL ENDS |
|---|------------------------|
| Environmental Council of the States (ECOS)                  | January 7, 2020        |
| Environmental Research Institute of the States              | January 7, 2020        |
| Environmental Law Institute, Board of Directors             | January 7, 2020        |
| American College of Environmental Lawyers, Board of Regents | January 7, 2020        |
| American University Washington College of Law               | January 7, 2020        |

### *ATTORNEY BAR OBLIGATIONS*

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

### *SCREENING ARRANGEMENT*

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Deborah A. Szaro, Deputy Regional Administrator, Region 1, to assist in screening EPA matters directed to my attention that involve those entities. To help ensure that I do not inadvertently participate in matters from which I am recused, I am directing Ms. Szaro to seek the assistance of the Region 1 Ethics Team and/or OGC/Ethics if she is ever uncertain whether or not I may participate in a matter. All inquiries and comments involving the entities on my recusal list should be directed to Ms. Szaro without my knowledge or involvement until after my recusal period ends.

If Ms. Szaro determines, with input from Region 1 Ethics and/or OGC/Ethics as appropriate, that a particular matter will directly involve any of the entities on my "specific party" recusal list, she will refer it for action or assignment to another, without my knowledge or involvement. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics.

---

more stakeholders regarding a given policy or piece of legislation, then I could attend such a meeting even if one of the stakeholders is a former employer or former client. *See* Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (3/20/17).

*UPDATE AS NECESSARY*

In consultation with OGC/Ethics or the Region's ethics team, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you, OGC/Ethics, and my principal subordinates.

## Attachment

cc: Deborah A. Szaro, Deputy Regional Administrator, Region 1  
Sean T. Dixon, Senior Policy Advisor to the Regional Administrator  
Jane Lindsay, Executive Assistant  
Carl F. Dierker, Regional Counsel, Region 1  
LeAnn Jensen, Regional Ethics Counsel, Region 1  
Justina Fugh, Senior Counsel for Ethics